

## 70A Am. Jur. 2d Social Security and Medicare § 122

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### Social Security and Medicare

George Blum, J.D., John Bourdeau, J.D., Kerry M. Diggin, J.D., Romualdo P. Eclavea, J.D., Edward K. Esping, J.D., Tracy Bateman Farrell, J.D., Jill Gustafson, J.D., Janice Holben, J.D., Alan J. Jacobs, J.D., Anne Knickerbocker, J.D., Jack K. Levin, J.D., Anne E. Melley, J.D., LL.M., Tom Muskus, J.D., Karl Oakes, J.D., Eric C. Surette, J.D., and Barbara J. Van Arsdale, J.D.

### Part One. Social Security and SSI Benefits

#### II. Coverage of Employers and Employees

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##### a. State and Local Government Employees


##### (1) Overview

##### (a) In General

## § 122. Exceptions to rule of noncoverage

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### West's Key Number Digest

West's Key Number Digest, Social Security and Public Welfare  125.1, 128.1, 131

The Social Security Act<sup>1</sup> and the Internal Revenue Code<sup>2</sup> specify several exceptions to the general exclusion of state and local employment from social security coverage. Thus, service rendered by a person as an employee of a state or local government is not excluded from covered employment if:

- (1) the service was in the employ of a state,<sup>3</sup> a political subdivision of a state, or any wholly owned instrumentality of one or more states or political subdivisions, the person was not a member of the retirement system of the state, political subdivision, or instrumentality,<sup>4</sup> and the service was performed after July 1, 1991;<sup>5</sup>
- (2) the service was covered by an agreement that was entered into by the state and the Social Security Administration, pursuant to the Social Security Act,<sup>6</sup> to extend social security coverage to groups of employees of the state and its political subdivisions;<sup>7</sup>
- (3) the service constitutes a covered transportation service;<sup>8</sup>

- (4) the service was performed in the employ of the District of Columbia or any instrumentality wholly owned by the District of Columbia, and was not covered by a retirement system established by a law of the United States;<sup>9</sup> or
- (5) the service was performed, under the proper circumstances, in the employ of the government of American Samoa,<sup>10</sup> or the government of Guam,<sup>11</sup> a political subdivision of American Samoa or Guam, or any instrumentality wholly owned by one or more of these entities.<sup>12</sup>

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#### Footnotes

- 1 42 U.S.C.A. § 410(a)(7).
- 2 26 U.S.C.A. § 3121(b)(7).
- 3 20 C.F.R. § 404.1020(a)(3) (not including the District of Columbia, Guam, the Northern Mariana Islands, or American Samoa).
- 4 42 U.S.C.A. § 410(a)(7)(F); 26 U.S.C.A. § 3121(b)(7)(F).
- 5 20 C.F.R. § 404.1020(a)(3).  
As to mandatory coverage of service rendered by a state or local employee, see §§ 142, 143.
- 6 42 U.S.C.A. § 418.
- 7 42 U.S.C.A. § 410(a)(7)(A); 26 U.S.C.A. § 3121(b)(7)(E).  
As to the election of social security coverage by a state, see §§ 164 to 171.
- 8 42 U.S.C.A. § 410(a)(7)(B); 26 U.S.C.A. § 3121(b)(7)(A).  
As to covered transportation services, see §§ 123, 124.
- 9 42 U.S.C.A. § 410(a)(7)(D); 26 U.S.C.A. § 3121(b)(7)(C).  
As to the coverage of District of Columbia employees, see § 125.
- 10 42 U.S.C.A. § 410(a)(7)(C); 26 U.S.C.A. § 3121(b)(7)(B).
- 11 42 U.S.C.A. § 410(a)(7)(C), (E); 26 U.S.C.A. § 3121(b)(7)(B), (D).
- 12 As to the coverage of government employees of American Samoa, Guam, and the Northern Mariana Islands, see § 126.

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